

**Environmental Loans Program Guidance:
Inclusion of *De Minimis* Non-core Project Costs for
Safe Drinking Water Loan Program (SDWLP) Applications and
Restricted Use of Contingency Funds**

The Department of Natural Resources (DNR) has modified the SDWLP financial assistance application process to allow communities to include a limited amount of funding in their project budgets for items and activities that will contribute to the overall functionality or integrity of a drinking water system but fall outside of the core scope of the project being funded. This document describes criteria for such funding requests.

In addition, this guidance limits the use of “contingency funds” identified in SDWLP project budgets to unanticipated construction-related costs associated with the core project as identified in the application. It will no longer be possible to use unspent contingency funds for activities that fall outside the core scope of a SDWLP project. For the purposes of the *Application for Financial Assistance* and the *Financial Assistance Agreement (FAA)*, contingency will be defined as:

“[A]n amount added to the construction estimate for the core scope of items and activities to allow for items, conditions, or events for which the state, occurrence, or effect is uncertain and that experience shows will likely result in additional costs.”

This Program Guidance will result in:

- Improved customer service.
- Greater efficiency for preparing FAAs (also called Loan Agreements).
- Greater efficiency in processing requests for disbursement.
- Inclusion of more SDWLP-eligible costs associated with systems rather than specific projects.
- Greater ability for municipalities to plan for non-core project improvements or other de minimis costs.
- Greater clarity for all parties (DNR, municipalities, consulting engineers) in determining costs eligible for funding.

A. Background

When loan requests exceeded available loan funding, loan awards were limited to the highest scoring projects. DNR reviewed the scope of each project to ensure it related to solving a specific problem or had a specific purpose. Allowable costs included only those costs that were core to that project. Items and activities that were non-core project related or fell outside of the specific core scope of a project were deemed ineligible SDWLP costs.

Municipalities typically do not apply for separate funding for non-core project activities because those activities are generally lower cost, are often low scoring and don’t warrant the administrative and bond counsel costs associated with obtaining SDWLP funding.

In recent years, DNR staff noted a trend of municipalities asking to use contingency fund balances for non-core project activities as the project was nearing completion. Determining

whether such requests should be allowed at the end of the project leads to inconsistencies in program administration by DNR staff, requires significant workload on the part of DNR field engineers and DNR Loan Project Managers and may not be the highest priority use of those funds.

If non-core project activities were clearly and formally identified at the beginning of a project, and separated from core project activities in the budget, the DNR could allocate funds for non-core project activities up front, eliminating much of the uncertainty and the time currently spent determining cost eligibility towards the end of the project.

B. Allowable Non-Core Project Costs

SDWLP Application Budget Sheets will include a Category for “Non-core Project Costs”. Applicants can identify non-core project activities and associated costs on their application budget sheet that fall outside of the core project scope but will contribute to the overall functionality or integrity of the system. Applicants will be limited to the following amounts when requesting funds for non-core project activities:

- Up to 5% of their core project costs subject to the limits below:
 - If 5% of core project costs equal \$50,000 or less, then a municipality may request up to \$50,000 for non-core project activities.
 - If 5% of the core project costs are greater than \$100,000, the municipality may request no more than \$100,000 for these non-core project activities.
- In no situation can the amount requested for non-core project activities exceed the cost of the core project.

C. Tracking of Non-core Project Requests Separately on the SDWLP Funding List.

Because of the possibility that the SDWLP may have insufficient funds in a particular fiscal year for all core project costs requested by municipalities that year, the DNR will track requests for non-core project costs separately as part of the application budget and on the Funding List. The DNR will first allocate loan funds to projects on the Funding List for their core project costs, in project priority score order. Once allocations have been made for all core project costs, the DNR may allocate funds for non-core project activities, again in order by project priority score.

D. Calculations of Principal Forgiveness

In a year in which SDWLP principal forgiveness awards are available, principal forgiveness allocations will be calculated based on core project costs only; non-core project costs will not be considered in the principal forgiveness calculations.

E. Restrict Use of Contingency Fund balances.

For SDWLP projects for which construction is not yet complete at the time the loan is awarded, contingency is included in the budget to cover unanticipated costs associated with the core project construction activities. These contingency funds are in the FAA to protect against the possibility of the loan funds being expended before all of the core project work is completed. Since the SDWLP will now allow non-core project activities to be identified at the time of

application submittal, the DNR will restrict the use of contingency funds to cover only those unanticipated costs associated with the construction of the core project.

F. Examples

Allowable non-core project activities to be identified on the initial loan application:

- Additional costs for security at, for example, well #1, if the core project is constructing a new well #4 to replace contaminated well #2;
- Costs for a backup generator for a well if the core project is constructing an elevated storage tank with a SCADA system;
- Mapping the system for integration into a GIS program, if the core project is replacing mains and eliminating dead ends for a particular part of the water supply system.
- If contingency funds are insufficient for core project change orders, funding identified in the application for non-core project activities may be redirected to necessary core project cost overruns.

Allowable non-core project funding amounts:

- A municipality with a \$250,000 core project budget may request up to an additional \$50,000 for non-core project improvements, even though 5% of their core budget costs only equals \$12,500;
- A municipality with a \$1,500,000 core project budget may request up to \$75,000 (5% of their core project costs);
- A municipality with a \$5,000,000 core project budget may request no more than \$100,000 for non-core project activities, even though the \$100,000 is only 2% of the core project costs.

Appropriate Items for use of core project Contingency Funds:

- Hyperchlorination of a well to remove bacterial contamination, performed by a company hired directly by the applicant, with the core project being a new well and well house.
- Purchase of treatment equipment necessitated by an unpredicted field condition
- Necessary unanticipated work in the water system adjacent to a tower project where the contractor would not logically be the one to conduct that work, but critical to the success of the project (for example, a pipe break or a location/type/size discrepancy).
- Costs associated with independent consulting and/or contracting, or purchase of land in fee or easement due to changed or unanticipated field conditions (*e.g.*, previously undetected archeological site, unanticipated geologic complications, contamination).

Inappropriate items for use of Contingency Funds:

- Replacement of a contractor who is being unresponsive or who cannot complete the project. (Note: Such nonperformance should be covered by performance bonds.)
- Emergency conditions resulting in additional costs on the part of the applicant for non-core project related activities.
- Increased costs for non-core project activities.